IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN AT JODHPUR.

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S.B. CIVIL WRIT PETITION NO.4232/2005

Nagar Palika Mandal, Rani

Versus

Industrial Disputes Tribunal – cum
Labour Court, Jodhpur.

Date of Order : 19.7.2005

PRESENT

HON'BLE MR. JUSTICE R.P. VYAS

Mr. Rajkumar Mehta, for the petitioner/s

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The instant petition has been filed by the petitioner with the prayer that the judgment and award dtd. 4.8.2003 (Annex.6) passed by the learned Labour Court, Jodhpur and notification dtd. 8.12.1998 (Annex.1) may be quashed and set aside.

The brief facts of the case are that an industrial dispute was raised by the non-petitioner Devi Singh before the Conciliation Officer regarding his retrenchment. The conciliation proceedings failed and a failure report was submitted by the conciliation officer before the appropriate Government. The

appropriate Government vide notification dated 8.12.1998 referred the matter to the Labour Court, Jodhpur for adjudication under the provisions of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act of 1947).

The learned Labour Court, Jodhpur issued notices to the parties and the respondent – claimant filed claim petition stating inter alia that initially he was appointed on daily wage basis on contract at the time of Gram Panchayat, Rani by the then Sarpanch on 4.6.1991. Thereafter, the respondent – workman has stated that consolidated wages of Rs.660/- per month was given w.e.f. 1.5.93 to the respondent – workman. His appointment was purely temporary and he has worked upto 19.1.94. On 19.1.2004 by verbal order the services of the respondent – workman were terminated.

He also alleged that after his retrenchment number of persons were employed by the Municipal Board but the respondent – workman was not offered appointment.

The petitioner filed reply to the claim petition in which it was stated that the respondent – workman was initially appointed on temporary basis in the Gram Panchayat Rani. As the State Government desolved the Municipal Board, thereafter, the Municipal Board, Rani came into existence by the order of this Court and the services of the respondent – workman automatically came to an end. It was also alleged that the respondent – workman challenged the termination before this Court in which ad-interim order was granted. However, since the respondent – workman was not in the employment of the petitioner, he could not continue.

It was also alleged that looking to the peculiar facts and circumstances of this case the provisions of the Act of 1947 are not applicable in this case.

Heard the learned counsel for the petitioner at admission stage.

The main contention raised by the learned counsel for the petitioner is that the respondent –

workman was initially appointed by the Gram Panchayat, Rani. Thereafter, Gram Panchayat, Rani was desolved and Municipal Board, Rani was created. Therefore, the respondent- workman was not the employee of Municipal Board, Rani. It was also alleged that thereafter Municipal Board, Rani was desolved and again Gram Panchayat Rani was created. Thereafter, again by the order of this Court Gram Panchayat Rani was desolved and Municipal Board, Rani was created. The services of daily wages employee have been terminated by the Gram Panchayat Rani itself before creation of Municipal Board, Rani. It has also been submitted by the learned counsel for the petitioner that the respondent – workman was appointed on daily wage basis for temporary period under particular project and after termination of particular period his services automatically came to an end. Therefore, in view of provisions of Section 2(oo) (bb) the alleged termination of services of the respondent – workman does not fall within the definition of retrenchment as defined Section 2(oo) of the Act of 1947.

In my considered opinion, the findings arrived

at by the learned Labour Court are based on correct appreciation of evidence available on record. The respondent – workman was initially appointed in a Gram Panchayat Rani. Thereafter, on merger of Gram Panchayat, Rani into Municipal Board, Rani the respondent – workman started working at Municipal Board, Rani since 1.5.1993. In fact the respondent – workman was getting the wages from the Municipal Board, Rani from January, 1993 itself. The respondent - workman has also placed on record the order dated 6.1.93, in which it has been clearly stated that employees of the Gram Panchayat will work as employees of the Municipal Board. A copy of the said order dated 27.9.93 was also endorsed to the respondent – workman, by which the respondent – workman was appointed in Municipal Board, Rani. From all above circumstances, it is apparent that the respondent – workman was employee of Municipal Board, Rani. Further more the Municipal Board, Rani has failed to prove the fact that the respondent – workman was engaged on contract basis for a particular period. Therefore, provisions of Sec. 2(oo) (bb) are not attracted in this case and the termination of services of the respondent – workman

amongst to retrenchment as provided under Section 2(oo) of the Act of 1947.

The findings of fact recorded by the learned Labour Court are based on correct appreciation of evidence available on record and same do not suffer from any infirmity or illegality.

. For the reasons mentioned above, the instant petition is dismissed. No order as to costs.

(R.P. VYAS)J.

Rm/